

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SONNY'S REAL PIT BAR-B-Q ON
RED MILE PARKWAY, INC.

COMPLAINANT

VS.

KENTUCKY UTILITIES COMPANY

DEFENDANT

CASE NO. 89-188

O R D E R

On July 10, 1989, Sonny's Real Pit Bar-B-Q On Red Mile Parkway, Inc. ("Sonny's") filed a formal complaint against Kentucky Utilities Company ("KU"). Sonny's alleges KU threatened to disconnect its electric service unless Sonny's put forth a deposit or surety bond in the amount of \$1,880. Sonny's argues that the deposit is an unreasonable requirement; therefore, the threat of disconnection is improper. On July 11, 1989, the Commission ordered KU to satisfy or answer the complaint herein and on July 21, 1989, KU filed its answer alleging justification for requiring an \$1,880 deposit from Sonny's, and thereby the possibility of disconnection for failure to post the deposit or surety bond. Neither party moved for discovery or a formal hearing although Staff counsel contacted the attorneys for both parties to offer time for discovery and the hearing. The

Commission took this matter under submission for a decision based on the record by Order entered August 23, 1989.

KU's allegations regarding Sonny's payment history go undenied and unrefuted by Sonny's. The Commission finds, however, that whether KU's characterization of payments is accurate, KU is entitled by law to require a deposit from Sonny's as a condition to providing electrical service. The statutes presume the legality of deposits. See KRS 278.460. Pursuant to 807 KAR 5:006, Section 7(1), because KU bills Sonny's on a monthly basis, KU can require Sonny's to make a deposit in an amount no more than 2/12 of the customer's estimated annual bill. The records of the Commission's Consumer Services Branch (to which Sonny's first complained informally) show Sonny's electric bill for June 1988 through May 1989 was \$11,291.03. Two-twelfths of that bill is \$1,881.84. The use of that year's bills as a basis for estimating future bills is acceptable and the proposed deposit of \$1,880 clearly falls within the legal limit on deposits set by the regulation.

KU has established in its tariff a rule requiring a deposit for electrical services.¹ Thus, KU's threat to disconnect Sonny's electrical service was not unlawful as disconnection is allowed under 807 KAR 5:006, Section 11(1)(a), for a customer's failure to comply with the utility's rules.

¹ Sheet No. 15.1A of KU's tariff approved pursuant to 807 KAR 5:011, Section 9(1), and effective July 1, 1989.

Sonny's also argues violations of constitutional provisions against arbitrary and capricious action as well as denial of equal protection. If Sonny's is attempting to allege civil rights violations, the Commission is not the forum for adjudication of such allegations.

The Commission, therefore, finds no prohibition based on the facts or law to KU's requiring a deposit from Sonny's or to disconnecting Sonny's electrical service if the deposit is not made.

IT IS THEREFORE ORDERED that the complaint of Sonny's be and hereby is dismissed.

Done at Frankfort, Kentucky, this 20th day of September, 1989.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director